

*IN THE UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION AT KNOXVILLE*

IN RE:

**JOSEPH DEAN HABA,
TONI LYNN HABA**

Case No. 12-32077
Chapter 7

Debtors.

**MOTION BY MICHAEL H. FITZPATRICK, TRUSTEE, TO COMPROMISE
DISPUTE WITH TENNESSEE VALLEY AUTHORITY**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to E. D. Tenn. LBR 9013-1(h)(ix), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at Howard H. Baker, Jr. U.S. Courthouse, 800 Market Street, Suite 330, Knoxville, TN 37902, an objection within 21 days from the date this paper was filed and serve a copy on the movants' attorney, Ryan E. Jarrard, Esquire, Quist, Cone & Fisher, PLLC, 2121 First Tennessee Plaza, Knoxville, TN 37929-9711, or rej@qcflaw.com. If you file and serve an objection within the time permitted, the court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the court will consider that you do not oppose the granting of the relief requested in this paper and may grant the relief requested without further notice or hearing.

Michael H. Fitzpatrick, Trustee, hereby Moves the Court pursuant to Fed. R. Bankr. P. 9019(a) and E.D. Tenn. LBR 9019-1(a) and 9013-1(h) for authority to settle a claim brought by the Debtors against the Tennessee Valley Authority (hereinafter TVA), and gives notice to creditors and other parties in interest of the compromise. Prior to filing for bankruptcy, the debtors had property located at 508 Kings Close Drive, in Kingston Tennessee that was damaged in the coal ash spill that occurred at the TVA Kingston Fossil Plant on or about December 22, 2008. The debtors joined in a class action lawsuit brought in the United States District Court for the Eastern District of Tennessee with the docket number of 3:11-CV-606-TAV-HBG. The parties conducted court ordered mediation, and eventually reached a settlement. The debtors' case was severed on July 30, 2014 and given the new docket number 3:14-CV-00357-TAV-HBG. The parties have agreed to settle all claims for \$51,015.00 in diminution of value to the Kings Close property. The debtors'

attorneys have a fee arrangement to collect 30% of the settlement as a fee¹, which comes to \$15,304.50. The debtors' attorneys have also incurred costs of \$98.95, which leaves a net benefit to the estate of \$35,611.55. Debtor's attorneys are entitled to claim a lien on these proceeds pursuant to Tenn. Code Ann. 23-2-102. The Trustee has reviewed the pleadings and settlement documents in this case, and believes that this settlement is fair and the attorney's fees are reasonable given the time and labor involved, the skill required to perform the representation, the fee customarily charged, the amount involved and the results obtained.

In addition, Sean Stephens² claims to be an unlisted creditor in the debtor's bankruptcy, and asserts that he is entitled to a lien on any of the proceeds. At the time of this filing, the Trustee has not been informed of the total amount claimed by Mr. Stephens.

Wherefore, Michael H. Fitzpatrick, Trustee, moves the court for an order approving the settlement of \$51,015.00 to be paid to the Trustee.

DATED: August 25, 2014.

Respectfully submitted,

/S/ Ryan E. Jarrard

Ryan E. Jarrard, BPR No. 024525
Attorney for Michael H. Fitzpatrick,
Trustee
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rej@qcflaw.com

¹ Debtors' attorneys are Curt D. Marshall, David B. Byrne, Elizabeth A. Alexander, Elizabeth J. Cabraser, Gary A. Davis, Jeff Friedman, Jere Locke Beasley, Matthew D. Conn, Paul D. Brandes, Peter M. Villari, Rhon E. Jones, Robin L. Greenwald, and Wayne A. Ritchie, II. The Trustee's primary contact has been with Elizabeth A. Alexander.

² Sean Stephens claims to have purchased a deficiency judgment from Citizens Bank that resulted from a foreclosure that occurred on the property located at 508 Kings Close Drive in Kingston, Tennessee. Mr. Stephens asserts that this foreclosure and the accompanying deficiency judgment occurred pre-petition.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion and related Order have been furnished to the following by placing a copy in the U.S. Mail, first class, postage prepaid, email or the court ECF system to all parties listed below or on the attached mailing list this August 25, 2014:

Creditors and parties in interest on the attached list

Elizabeth A. Alexander
Leiff Cabraser Heinman & Bernstein
154th Avenir North
Suite 1650
Nashville, TN 37219

Curt D Marshall
Weitz & Luxenberg, P.C. - NY
700 Broadway
New York, NY 10003

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Gary A. Davis & Associates
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Suite 300
Knoxville, TN 37902

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Samples, Jennings, Ray & Clem
Shallowford Law Center
130 Jordan Drive
Chattanooga, TN 37421-6731

Brent R. Marquand
Tennessee Valley Authority
Office of General Counsel
400 W. Summit Hill Drive
Knoxville, TN 37902

/s/ *Ryan E. Jarrard*

Attorney

Label Matrix for local noticing 0649-3 Case 3:12-bk-32077 Eastern District of Tennessee Knoxville Fri Aug 22 16:05:21 EDT 2014 (p)NATIONSTAR MORTGAGE PO BOX 630267 IRVING TEXAS 75063-0116	First Tennessee Bank NA, Department c/o Ascension Capital Group P.O. Box 201347 Arlington, TX 76006-1347 TOYOTA MOTOR CREDIT CORPORATION 9441 LBJ Freeway, Suite 350 Dallas, TX 75243-4652	Kingston Scandlyn Lumber Company c/o Greg Leffew, Atty PO Box 63 Rockwood, TN 37854-0063 United Community Bank c/o Garrett P. Swartwood 1111 Northshore Drive Suite S-700 Knoxville, TN 37919-4097
Wells Fargo Bank, N.A. Payment Processing MAC# x2302-04c 1 Home Campus Des Moines,, IA 50328-0001	3 United States Bankruptcy Court Howard H. Baker Jr. U.S. Courthouse Suite 330, 800 Market Street Knoxville, TN 37902-2343	ARS National Services Inc. PO Box 463023 Escondido, CA 92046-3023
Aes/Edsouth W Bk Of Ny Po Box 2461 Harrisburg, PA 17105-2461	Allied Interstate 3000 Corporate Exchange Drive 5th Floor Salt Lake City, UT 84130-0285	Allied interstate PO Box 361774 Columbus, OH 43236-1774
American Medical Collection Agency 4 Winchester Blvd STE 110 Elmsford, NY 10523	Angel Nails ATTN: Vinh Nguyen Thanh 609 N. Kentucky Street Suite B Kingston, TN 37763-2692	Associated Pathologists PLC c/o Pathgroup PO Box 403009 Atlanta, GA 30384-3009
Associated Recovery Systems PO Box 469046 Escondido, CA 92046-9046	(p)BANK OF AMERICA PO BOX 982238 EL PASO TX 79998-2238	Bank Of America, N.A. 450 American St Simi Valley, CA 93065-6285
Buffaloe & Associates PLC PO Box 190684 Nashville, TN 37219-0684	CAC Financial Corp. 2601 New Expressway STE 1000 East Oklahoma City, OK 73112-7236	(p)CAPITAL ONE PO BOX 30285 SALT LAKE CITY UT 84130-0285
Chase Bank Usa, Na Po Box 15298 Wilmington, DE 19850-5298	Citizens National Bancorp Inc. d/b/a Citizens National Bank of Athens c/o Bridget J. Willhite, Attorney P.O. Box 885 Athens, TN 37371-0885	Citizens National Bank 202 N. Kentucky Street Kingston, TN 37763-2741
Citizens National Bank P.O. Box 220 Athens, TN 37371-0220	Credit Collection Services Two Wells Avenue Dept. 9133 Newton Center, MA 02459-3225	Cynthia T. Lawson Bond, Botes & Lawson PC 6704 Watermour Way Knoxville, TN 37912-1261
Dell Financial Services c/o Receivable Management Services PO Box 509 Richfield, OH 44286-0509	Discover Bank c/o Bart Lloyd, Nathan & Nathan, P.C. P.O. Box 1715 Birmingham, AL 35201-1715	Discover Fin Svcs Llc Po Box 15316 Wilmington, DE 19850-5316

Diversified Adjustment Service, Inc.
PO Box 32145
Minneapolis, MN 55432-0145

Enhanced Recovery Company, LLC
8014 Bayberry Rd.
Jacksonville, FL 32256-7412

Farm Credit Servicers of Mid-America
P.O. Box 34390
Louisville, KY 40232-4390

Farm Credit Services of Mid-America
P.O. Box 1738
Dandridge, TN 37725-1738

First Tennessee Bank
P.O. Box 1469
Knoxville TN 37901-1469

First Tennessee Bank
Po Box 84
Memphis, TN 38101-0084

First Tennessee Bank NA
PO Box 201347
Arlington, TX 76006-1347

Frost Arnett Company
PO Box 198988
Nashville, TN 37219-8988

Gecrb/Ikea
Po Box 981400
El Paso, TX 79998-1400

Gecrb/Sams Club
Po Box 981400
El Paso, TX 79998-1400

Internal Revenue Service
Centralized Insolvency Operation
P.O. Box 7346
Philadelphia, PA 19101-7346

Kingston Scandlyn Lumber Co
c/o Greg Leffew, Attorney
P.O. Box 63
Rockwood, TN 37854-0063

Kohls/Capone
N56 W 17000 Ridgewood Dr
Menomonee Falls, WI 53051-7096

LTD Financial Services
7322 Southwest Freeway, STE 1600
Houston, TX 77074-2134

Laboratory Corporation of America
PO Box 2240
Burlington, NC 27216-2240

Leading Edge Recovery Solutions
PO Box 129
Linden, MI 48451-0129

Lewis, King, Krieg & Waldrop, PC
PO Box 2425
Knoxville, TN 37901-2425

Midland Funding
8875 Aero Dr Ste 200
San Diego, CA 92123-2255

Midland Funding LLC as successor to
Citibank/Sears Gold Mastercard
c/o Finkelstein, Kern, Steinberg, et al
P.O. Box 1
Knoxville, TN 37901-0001

Nationstar Mortgage Ll
350 Highland Dr
Lewisville, TX 75067-4177

Northland Group
PO Box 390846
Minneapolis, MN 55439-0846

Roane County Trustee
200 E. Race Street
Kingston, TN 37763-2860

Ronald Hamilton and Rhonda Jackson
121 Rose Rd
Kingston, TN 37763-3414

Sears/Cbna
Po Box 6282
Sioux Falls, SD 57117-6282

TTI National
c/o NCO Financial Systems, Inc.
PO Box 17196
Baltimore, MD 21297-1196

Thd/Cbna
Po Box 6497
Sioux Falls, SD 57117-6497

Toyota Motor Credit Co
810 Crescent Centre Dr S
Franklin, TN 37067-6222

Toyota Motor Credit Corporation (TMCC)
PO BOX 8026
Cedar Rapids, Iowa 52408-8026

Transworld Systems, Inc.
Collection Agency
216 Centerview Drive #111
Brentwood, TN 37027-3226

United Community Bank
223 North Third Street
Kingston, TN 37763-2845

United Community Bank
c/o Garrett P. Swartwood, Esq.
1111 Northshore Drive, Suite S-700
Knoxville, Tennessee 37919-4097

United States Attorney
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800 Market Street, Suite 211
Knoxville, TN 37902-2342

United States Trustee
800 Market Street, Suite 114
Howard H. Baker Jr. U.S. Courthouse
Knoxville, TN 37902-2303

Uptain Group, Inc.
4811C Bradford Dr.
Huntsville, AL 35805-1948

Verizon Wireless
ATTN: Sandy Harrell
d/b/a Cellular Communications
4021 Hwy 66 South, Suite B
Rogersville, TN 37857-3180

(p)WELLS FARGO BANK NA
WELLS FARGO HOME MORTGAGE AMERICAS SERVICING
ATTN BANKRUPTCY DEPT MAC X7801-014
3476 STATEVIEW BLVD
FORT MILL SC 29715-7203

Women's Care Group, PC
1932 Alcoa Highway, Suite 150
Knoxville, TN 37920-1532

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6704 Watermour Way
Knoxville, TN 37912-1261

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1119 E. Tri-County Blvd.
Oliver Springs, TN 37840-6218

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Kingston, TN 37763-5247

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Lenoir City, TN 37771-7420

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Knoxville, TN 37929-9711

Toni Lynn Haba
105 Mossey Creek Dr.
Kingston, TN 37763-5247

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Nationstar Mortgage
Attn: Bankruptcy Dept.
350 Highland Drive
Lewisville, TX 75067

Bank Of America
Po Box 982238
El Paso, TX 79998

Cap One
Po Box 85520
Richmond, VA 23285

Wells Fargo Hm Mortgage
8480 Stagecoach Cir
Frederick, MD 21701

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)BANK OF AMERICA, N.A.

(u)Bank of America, N.A., Successor By Merger

(d)Angel Nails
ATTN: Vinh Nguyen Thanh
609 N. Kentucky Street, Suite B
Kingston, TN 37763-2692

(d)Ronald Hamilton and Rhonda Jackson
121 Rose Rd.
Kingston, TN 37763-3414

(d)Verizon Wireless
ATTN: Sandy Harrell
d/b/a Cellular Communications
4021 Hwy 66 South, Suite B
Rogersville, TN 37857-3180

End of Label Matrix	
Mailable recipients	72
Bypassed recipients	5
Total	77